

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6778 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA and  
MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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CONSUMER PROTECTION & ACTION COMMITTEE

Versus

STATE OF GUJARAT

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Appearance:

MR YN OZA for Petitioners  
SERVED BY DS for Respondent No. 1  
M/S THAKKAR ASSOC. for Respondent No. 5

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CORAM : MR.JUSTICE R.A.MEHTA and  
MR.JUSTICE S.D.PANDIT

Date of decision: 13/10/97

ORAL JUDGEMENT

The petitioner, Consumer Protection & Action Committee has filed this petition as a public interest petition in the interest of consumers of LPG gas. The Ministry of Petroleum had taken a decision that the long

pending applications for new connections be disposed of on priority basis and it was decided that all those who have been on the waiting list before 1st January 1991, should be given the new LPG connections and they are being given.

2. The grievance of the petitioner is that these new connections are being given through LPG distributors of other and distant areas and not the existing distributors of the local areas. With the result, the consumers will have lot of difficulties in getting the services from distributors who are from one end of Ahmedabad to the customers at the other end of Ahmedabad. It is submitted that the distributors of Western Ahmedabad have been selected and favoured for giving the new connections in Eastern Ahmedabad. It is also submitted that the consumer should get the LPG connection from the place and the distributor where he has registered his demand and that it is his essential and fundamental right to get the new LPG connection from the local distributor so that he gets the services from the nearest distributor. It is also submitted that the new distributors are insisting the customers of new gas connection to purchase hot plates at the value which is 3 to 4 times then the normal price. It is, therefore, contended that the respondent Indian Oil Corporation has unduly favoured the distributors of Western areas and put the consumers of eastern areas to hardship and this is done malafide.

3. On behalf of the respondent authorities, it is submitted that the Ministry of Petroleum had issued guidelines on 1st May, 1997 (page 103) wherein it is recited that the Ministry had approved 10 lacs new connections to be issued between different Oil Companies and new connections were to be released following certain criteria. Criteria 2.5 is to give new connections through unviable distributorships. Priority to be given to distributors operating below 50 per cent of the refill sale ceiling. At page 104 is the list of distributors of Ahmedabad with their refill ceiling and percentage of refill category based on which the new connections are distributed to various distributors, namely 36 in Ahmedabad. That table is as follows:

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Sr.No.	Name of Distributor	Market Refill ceiling	Refill category	New conn. alloc. percentage
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- |    |                                |       |      |      |
|----|--------------------------------|-------|------|------|
| 1. | Mitul Gas Agency Ahmedabad     | 10000 | 0-25 | 2100 |
| 2. | Rasoi Gas Agency Ahmedabad     | 10000 | 0-25 | 2100 |
| 3. | Harsiddhi Gas Agency Ahmedabad | 10000 | 0-25 | 2100 |

4. K.V.Gas service Ahmedabad 10000 0-25 2100
5. Jay Ambe Gas service Ahmedabad 10000 0-25 2100
6. Ujala Gas Ahmedabad 10000 0-25 2100
7. Upasana Gas Agency Ahmedabad 10000 0-25 2100
8. Varsha Gas Service Ahmedabad 10000 0-25 2100
9. Arjun Gas Agency Ahmedabad 10000 26-50 1750
10. Satyam Gas Service Ahmedabad 10000 51-75 1330
11. Vishal Gas Service Ahmedabad 10000 51-75 1330
12. Pauravi Gas Service Ahmedabad 10000 51-75 1330
13. Rajmin Ahmedabad 10000 51-75 1330
14. Kirti Gas Service Ahmedabad 10000 51-75 1330
15. Gori Gas Service Ahmedabad 10000 51-75 1330
16. Carol Gas service Ahmedabad 10000 51-75 1330
17. Sahil Gas Service Ahmedabad 10000 76-100 980
18. A.K.Gas Service Ahmedabad 10000 76-100 980
19. H.S.Gas Service Ahmedabad 10000 76-100 980
20. Vihar Enterprise Ahmedabad 10000 76-100 980
21. Somal Gas Service Ahmedabad 10000 Others 595
22. Utkarsh Gas Service Ahmedabad 10000 Others 595
23. Unity Gas Agency Ahmedabad 10000 Others 595
24. Santosh Gas Service Ahmedabad 10000 Others 595
25. S.Chhatrachhaya Gas Ahmedabad 10000 Others 595
26. Bright Gas Service Ahmedabad 10000 Others 595
27. Ambica Gas Service Ahmedabad 10000 >100 350
28. Apna Bazar Ahmedabad 10000 >100 350
29. GSCSC Ltd. Ahmedabad 10000 >100 350
30. Harish Gas Service Ahmedabad 10000 >100 350
31. Ara Gas Agency Ahmedabad 10000 >100 350
32. Uday Gas Agency Ahmedabad 10000 >100 350
33. Ashimit Gas Agency Ahmedabad 10000 New Dis.1050
34. Sarthi Gas Service Ahmedabad 10000 New Dis.1050
35. Agnee Gas Agency Ahmedabad 10000 New Dis.1050
36. Nirmala Gas Service Ahmedabad 10000 New Dis.1050

Note: Others - Those distributors were making adhoc  
refill supplies to the customers of  
terminated/suspended distributors.

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Four refill categories are explained in the Explanatory  
Note at para 5 which reads as under :

"Basis of new connection allocation :

Traditionally the average monthly refill sale of  
the distributors during the previous Financial  
Year has been taken as the basis for allocation  
of new connections. The distributors are  
categorised based on the average monthly refill  
sale of the previous Financial Year in relation  
to the refill ceiling of the market as explained

below:

Category:

I 0 - 25 % of refill ceiling i.e. All those distributors who have achieved an average monthly refill sale upto 25% of the ceiling.

II 26% - 50% of refill ceiling i.e. All those distributors who have achieved an average monthly refill sale upto 50% of the ceiling but more than 25%.

III 51% - 75% of refill ceiling i.e. All those distributors who have achieved an average monthly refill sale upto 75% of the ceiling but more than 50%.

IV 76% to 100% of refill ceiling i.e. All those distributors who have achieved an average monthly refill sale upto 100% of the ceiling but more than 75%.

However, the number of connections to be allotted to each category stated above is decided based on the total number of connections to be released in that particular period. We give below number of connections allotted during the last four Financial Years categorizing the distributors as explained above:-

Year Category

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I II III IV  
1993-94 700 410 250 125  
1994-95 1350 800 540 240  
1995-96 350 150 100 50  
1996-97 100 60 50 00

The allocation in favour of Distributors commissioned during the current financial year and the Project Distributors are allocated a fixed number of connections.

The above is based on the following rationale:

- a) Average refill sale of the previous year reflects the financial viability of the distributorship.
- b) This further reveals the slack availability with the distributor. In

other words, a distributor who has less customer strength has comparatively lesser work burden and can devote more time that needed for release of new connections."

4. It is further submitted that based on the past performance of the distributors and the facilities with them to handle the additional work load and having regard to the aforesaid categorization and priorities connections have been allotted to various distributors of Ahmedabad. It is therefore submitted by the Corporation that the Corporation has followed a rational and equitable method for distribution of the new LPG connections.

5. It is also submitted by the respondents that more than 15000 connections were to be released in this area where there were three existing distributors and there would have not only excessive allotment but they would not have been able to render prompt and satisfactory service at such short notice to such large number of persons and these connections were to be released before the Diwali holidays. It is also pointed out that the consumers will not have any difficulty of distance because all these distributors have opened their show rooms in the new areas so that the customers will not have any difficulties of travelling long distances. On behalf of the Indian Oil Corporation it is categorically stated that the consumers have got their new connections from the show rooms in their local area, of course, by the new distributors and that they will continue to get the services in their local area and they will not have to go to any other area for getting the services.

6. However, the grievance of the petitioners is that this arrangement is highly inconvenient and arbitrary and is illegal. It is submitted that every distributor has an area of operation allotted to it and it cannot have operations outside the area and the distributor in the area has a right to have the connections distributed through it. If other distributors of other areas are allotted to open and operate the show rooms, such show rooms would be temporary and might be discontinued at any time. It is also stated that such arrangement is contrary to the distributorship agreement and the provisions.

7. The distributorship agreement (page 88) provides in para 1(b) that there is no guarantee of any area and

the Corporation reserves the right to appoint other distributors in the area and the additional distributor can be appointed in the same area. It is further provided that the Corporation can modify and alter the area of distributor's territory and such a decision of the Corporation would be final and binding on the distributors.

8. However, it is submitted by the petitioner that there is no such order of appointment of any new distributor of any new area and the extension or alternation of area and therefore, this is contrary to the terms of the agreement. Under the agreement it is clear that the Corporation has the powers to do all these things. The Corporation has for specific purpose of allotment of new gas connections adopted this method of distribution of new connections of distributors of Ahmedabad. This arrangement cannot be said to be contrary to the spirit of the policy or spirit of the agreement. Under the agreement, the Corporation has power and therefore it cannot be said that what the Corporation has done is contrary to agreement. It has also to be noted that no distributor has come forward to raise this kind of dispute because the agreement itself provides that if there is any dispute between a distributor and the Corporation, it has to be resolved by reference to arbitration under clause 37 of the Agreement. Therefore, what the distributors cannot do by coming to this Court, is sought to be done and achieved by the present petition. In fact, the allegations of the respondents-distributors is that the present petition is a petition by proxy and motivated by the three local dealers of Eastern Ahmedabad. They are referred to in the affidavit in reply filed by the respondent-distributors.

9. On behalf of the respondent Corporation, it is also pointed out that as far as the applicant for gas connection is concerned, he is clearly told that the registration of demand is valid for the town (not local area of a distributor) and therefore it is incorrect to claim that the consumer has a right to get the new connection only from a particular distributor. There is no such right to the consumer. The only right is to get equality of treatment and equitable distribution and having regard to the fact that there is a clearance assurance of the Corporation that the consumers will get their new connections and the service in their own areas. Therefore it is a matter of no consequence to the consumer whether the service and the connections are given by distributor 'A' or 'B'.

10. It is also argued by the learned counsel for the petitioner that this kind of distribution system of new gas connections is adopted in Ahmedabad only by the Indian Oil Corporation and that it has not been so adopted by other Companies and in other areas. When we find that the method evolved and adopted by the Indian Oil Corporation in Ahmedabad is rational and equitable and in the interest of the consumers, it cannot be struck down on the ground that elsewhere there is a different policy. After all there can be more than one rational and reasonable way of dealing with the situation and that would not make the system which is rational and reasonable to be struck down on the ground that elsewhere there is some different system.

11. We do not find any merit in any of the contentions raised by the learned counsel for the petitioners. Hence the petition is dismissed. Notice discharged.

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